

Secretary's Order No.: **2006-A-0035**

RE: Delaware's Proposed Environmental Standards
For Eligible Energy Resource Regulation

Date of Issuance: July 17, 2006

Effective Date of the Amendment: August 11, 2006

I. Background:

A public hearing was held on May 1, 2006 at the Delaware Energy Office, 146 South Governors Avenue, in Dover, Delaware, to receive public comment on a new regulation, Environmental Standards for Eligible Energy Resources, as required by Senate Bill 74, "Renewable Energy Portfolio Standards" (hereinafter referred to as "RPS"). The purpose of this regulation is to prescribe procedures relating to the Renewable Energy Portfolio Standards Act, pursuant to 26 Del.C. Ch. 1, Subchapter IIIA. This regulation prescribes environmental standards for hydroelectric facilities and for the combustion of biomass. These standards determine if a resource is an Eligible Energy Resource under the Act. These regulations are promulgated under authority of 26 Del.C. Ch. 1, §352(6) and 26 Del.C. Ch. 1, Section 1. Also affected by this

proposed regulation is the Delaware Public Service Commission Regulation Docket 56.

Present at this public hearing on May 1, 2006, was Brian Gallagher, contractor from the Delaware Public Service Commission, who assisted the Delaware Energy Office with drafting this proposed regulation. Also present at the hearing were Bill and Roberta Glenn, private citizens from Seaford, Delaware, and Alan Muller, Executive Director of Green Delaware. Questions and comments which could not be answered by the Department at the time of the hearing concerning these proposed regulations were later formally responded to directly by the Energy Office. These responses to the public's questions were summarized in a formal Memorandum submitted to the Hearing Officer on June 1, 2006. Proper notice of the hearing was provided as required by law.

II. Findings:

The Department has carefully considered all relevant public input regarding its proposed regulation, and has provided a reasoned analysis and a sound conclusion with regard to the response given to each such comment, as reflected in the July 12, 2006 Hearing Officer's Report, which is attached and incorporated into this Order. The reasoning and conclusions with respect to each issue are hereby incorporated into this Order as formal findings.

III. Order:

In view of the above findings, it is hereby ordered that Delaware's Environmental Standards for Eligible Energy Resources Regulation, as required by Senate Bill 74, "Renewable Energy Portfolio Standards", be promulgated in final form in the customary manner and established rule-making procedure required by law.

IV. Reasons

The development of these new regulations, together with the assistance of the Public Service Commission in the area of enforcement of the same, will provide a significant energy benefit for the current citizens of the State of Delaware, as well as for future generations to come. Additionally, this rulemaking represents careful, deliberate and reasoned action by this agency, again, in concert with the PSC, to address the energy issues affecting Delaware at this time. In developing these regulations, the Department has balanced the absolute environmental need for the State of Delaware to promulgate regulations concerning this matter with the important interests and wide array of public concerns surrounding the same, in furtherance of the policy and purposes of 7 Del. C., Ch. 60.

/s/ John A. Hughes
John A. Hughes
Secretary